

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-02 Local Government Fiscal Responsibility

SPONSOR(S): Ways & Means Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Aldridge	Langston

SUMMARY ANALYSIS

The bill contains several elements intended to increase the fiscal responsibility of local governments.

The bill creates a new statutory maximum millage rate for local governments other than school districts. A county, municipality, special district dependent to a county or municipality, municipal service taxing unit, or independent special district may not levy a millage rate above its rolled-back rate, unless the government does not have excess unencumbered fund balances in any of its special revenue funds, as of the beginning of the fiscal year for which the millage rate is being considered or, if there are excess balances, appropriations are made to reduce any such balances. This, in effect, prohibits property tax increases, as defined in current law, unless certain excess fund balances are spent down.

The bill allows the above special revenue fund excess balances to be used for any public purpose, except for funds subject to restrictions imposed by the federal government or revenues that were approved by vote of the electors. This permission to expend funds applies irrespective of any other limitation on the use of such funds elsewhere in Florida law.

The bill prohibits a municipality or county from enacting, extending or increasing local option taxes other than property taxes, if the municipality or county had adopted a millage rate in excess of its rolled-back rate (with certain specified exceptions) in any of the three previous years. The bill does not apply this prohibition to school districts. However, the bill does amend the process for approval of a school capital outlay discretionary sales surtax. Under current law, in order to levy a school capital outlay discretionary sales surtax, the school board must approve a resolution, by majority vote, to place the question on the ballot for voter approval. The bill requires that the resolution be approved by a 4/5 majority of the school board.

The bill requires any local option or property tax levy, including property taxes levied by special districts, that will be approved by referendum be considered only at a general election. Further, the bill would increase to sixty percent the approval threshold for voter approval of any local option tax or property tax levy.

The bill requires voter approval for any new tax-supported debt that pledges revenues beyond 5 years. The voter approval would be subject to the same election restrictions described above for local option and property taxes. The bill provides an exception to this requirement in certain emergency situations, by allowing the governing board, by a 4/5 majority vote to authorize a vote at an election other than the general election, while still requiring 60 percent voter approval. The bill requires the resolution to declare that an emergency exists, that issuance of new tax-supported debt prior to the next general election is necessary as a direct result of the emergency, and to set forth a plan for use of the proceeds for purposes directly related to the emergency. The bill uses the definition of "emergency" found in Chapter 252, F.S. (Emergency Management).

The changes in the bill could have a negative, but indeterminate, impact on local government revenues.

The bill has an effective date of October 1, 2018.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb02.WMC

DATE: 3/6/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

General Provisions

The bill creates Part IX of Chapter 218, F.S., titled the “Local Government Fiscal Responsibility Act.” It also amends several provisions of current law. The substantive provisions of the bill are explained more fully below.

Property Tax Increases: *Spend Excess Balances*

Current Law

Constitutional Provisions

The Florida Constitution reserves ad valorem taxation to local governments. The State is prohibited from levying ad valorem taxes on real and tangible personal property.¹ The Florida Constitution further requires that counties, municipalities and school districts be authorized to levy ad valorem taxes by law. Special districts *may* be authorized by law to levy ad valorem taxes. The constitution also prohibits the levy of ad valorem taxes in excess of the following:

- Ten mills for county purposes,
- Ten mills for municipal purposes,
- Ten mills for school purposes,
- One mill for water management purposes, except in Northwest Florida where the limit is .05 mill,
- Millage authorized by law approved by voters for special districts.²

Property taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations.³ Counties providing municipal services may also levy up to an additional ten mills above the ten mill county limitation within those areas receiving municipal-type services.⁴

The Rolled-Back Rate

Chapter 200, F.S., is titled “Determination of Millage” and generally governs the process, procedures and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority.

A central concept is the “rolled-back rate,” as defined in s. 200.065(1), F.S., which is:

[A] millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any

¹ Art. VII, sec. 1(a), Fla. Const.

² Art. VII, sec. 9, Fla. Const. A mill is equal to \$1 per \$1,000 of value, or .001. A tax rate of 10 mills is equal to 1%.

³ Art. VII, sec 9(b), Fla. Const.

⁴ Section 200.065(5)(b), F.S.

dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.

If a local government levies a property tax rate in excess of the rolled-back rate, such levy must be characterized as a tax increase in the authorizing resolution or ordinance and in the advertisement required prior to adoption of a final millage rate and budget.⁵

Maximum Statutory Millage Rates

Chapter 200 also sets forth maximum millage rates applicable to counties, municipalities, and special districts. In 2007, the Legislature enacted statutory changes⁶ that established a maximum millage rate by requiring most taxing authorities to reduce their millage rates below their rolled-back rates.⁷ Exceptions were made for certain fiscally limited governments and for certain types of activities. The same legislation created a formula to determine a maximum millage rate (and implicitly a maximum revenue) that could be levied by a county, municipal, or special district governing board by simple majority vote. Exceeding the maximum would require the governing board to achieve certain extraordinary votes.

The maximum millage rate that most non-school taxing authorities can levy by simple majority vote is the rolled-back assuming the previous year's maximum millage rate was actually levied, adjusted by the change in Florida per capita personal income.⁸ Local governments are allowed to override this maximum rate by extraordinary votes of their governing boards or by referendum. A higher rate may be adopted only under the following conditions:

- A rate of not more than 110 percent of the rolled-back rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body of the taxing authority; or
- A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing body of the taxing authority or by a three-fourths vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.⁹

Unencumbered Excess Fund Balances

Pursuant to s. 218.33, F.S., the Department of Financial Services has developed a Uniform Accounting System Chart of Accounts for use by most Florida local governments in fulfilling their annual financial reporting requirements. The chart of accounts sets forth various fund types, including special revenue funds which are a governmental fund type to account for the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects.

There is no current expression in Florida statutes of the concept of "unencumbered excess fund balances" as is created in the bill and is described more fully below. Similar concepts do exist, though for different purposes. For example, Part IV of Chapter 218, F.S., is titled "Investment of Local Government Surplus Funds." The purpose of that part as described in s. 218.401, F.S., is "to promote, through state assistance, the maximization of net interest earnings on invested surplus funds of local

⁵ Sections 200.065(2)(d) and (3)(a).

⁶ Ch. 2007-321, Laws of Fla.

⁷ Section 200.065(5), F.S.

⁸ Section 200.065(5), F.S. The calculation of Florida per capita personal income is to be provided by the Office of Economic and Demographic Research, per s. 200.001(8)(i), F.S.

⁹ Section 200.065(5)(a), F.S.

units of government, based on the principals of investor protection, mandated transparency, and proper governance, with the goal of reducing the need for imposing additional taxes.” Section 218.403(8), F.S., defines “surplus funds” as meaning “any funds in any general or special account or fund of a unit of local government, or funds held by an independent trustee on behalf of a unit of local government, which in reasonable contemplation will not be immediately needed for the purposes intended.”

Proposed Change

The bill creates a new statutory maximum millage rate for local governments other than school districts. A county, municipality, special district dependent to a county or municipality, municipal service taxing unit, or independent special district may not levy a millage rate above its rolled-back rate, unless the government does not have any excess unencumbered fund balances in its special revenue funds as of the beginning of the fiscal year for which the millage rate is being considered, or, if there are excess balances, appropriations are made to reduce any such balances. This, in effect, prohibits property tax increases, as defined in current law, unless certain excess fund balances are spent down.

The bill defines “excess unencumbered fund balances” as:

[A]ny non-fee revenues, in any special revenue fund of a county, municipality, special district dependent to a county or municipality, municipal service taxing unit or independent special district, which are not otherwise committed by ordinance or resolution of the governing board to either a contingency reserve or to the future funding of specific projects or services, are not encumbered by appropriations or contractual obligations and are in excess of 10 percent of total annual revenues to the account or fund. The term does not include monies subject to restrictions imposed by the federal government or revenues that were approved by referendum of the electors in the affected jurisdiction.

The bill defines “non-fee revenues” as:

[A]ny monies, except as otherwise provided in this section, which are derived from any taxes levied by a local government, revenue shared by another government with a local government, or revenues, the use of which may be for any public purpose, derived from other sources.

Mirroring the Uniform Accounting System Chart of Accounts used by Florida’s local governments, the bill defines “special revenue fund” as:

A governmental fund type other than the general fund to account for proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects.

The bill allows the above special revenue fund excess balances to be used for any public purpose, except for funds subject to restrictions imposed by the federal government or revenues that were approved by vote of the electors. This permission to expend funds applies irrespective of any other limitation on the use of such funds elsewhere in Florida law.

Local Option Tax Increases: *Property Tax Restraint*

Current Law

The Florida Constitution preempts all forms of taxation, except for ad valorem taxes on real estate and tangible personal property, to the state unless otherwise provided by general law.¹⁰ Over the years, the legislature has, by general law, authorized many different local option taxes. Each local option tax

¹⁰ Art VII, sec 9, Fla Const.
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source comes with its own set of rules or prescriptions relating to the method for adopting and levying the tax.

Proposed Change

The bill prohibits a municipality or county from enacting, extending or increasing any of the following local option taxes if such local government had adopted a millage rate in excess of its rolled-back rate (with certain specified exceptions) in any of the three previous years:

- Local communications services tax¹¹
- Tourist development tax¹²;
- Tourist impact tax¹³;
- Discretionary surtax on documents;¹⁴
- Public service tax¹⁵;
- Local business tax¹⁶;
- Motor fuel and diesel taxes¹⁷;
- Convention development tax¹⁸;
- Local option food and beverage tax¹⁹;
- Local option sales taxes²⁰;

The restriction against levying millages in excess of the rolled-back rate do not apply to millages approved by a vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution, or millages approved by a vote of the electors pursuant to s. 12, Art. VII of the State Constitution.

The bill does not apply this prohibition to school districts. However, the bill does amend the process for approval of a school capital outlay discretionary sales surtax²¹. Under current law, in order to levy a school capital outlay discretionary sales surtax, the school board must approve a resolution, by majority vote, to place the question on the ballot for voter approval. The bill requires that the resolution be approved by a 4/5 majority of the school board.

Voter Approved Taxes: *Elections*

Current Law

Currently, certain local option taxes and property taxes require voter approval prior to being levied. Others have voter approval as an option that the local government may use to approve the levy.

Tourist Development Taxes

Section 125.0104, F.S., authorizes five separate tourist development taxes that county governments may levy. Depending on a county's eligibility to levy, the tax rate applied to transient rental transactions may be as high as 6 percent. Of these five levies, the initial levy of tourist development tax by a county

¹¹ Section 202.19, F.S.

¹² Section 125.0104, F.S.

¹³ Section 125.0108, F.S.

¹⁴ Only Miami Dade County may levy this tax. See ss. 125.0167 and 201.031, F.S.

¹⁵ Sections 166.231-.235, F.S.

¹⁶ Chapter 205, F.S.

¹⁷ Section 336.021 and .025, F.S.

¹⁸ Section 212.0305, F.S.

¹⁹ Section 212.0306, F.S.

²⁰ Section 212.055, F.S.

²¹ See s. 212.055(6), F.S. The school capital outlay surtax is the only non-property tax local option tax available to school districts.

at a rate of one or two percent requires approval by referendum.²² Counties are authorized to levy an additional one percent tourist development tax, which may be approved by an extraordinary vote of the governing board of the county or by referendum.²³

Motor Fuel and Diesel Fuel Taxes

County governments are authorized to levy up to 12 cents of local option fuel taxes in the form of three separate levies. The first is a tax of 1 cent on every net gallon of motor and diesel fuel sold within a county²⁴. Known as the ninth-cent fuel tax, this tax may be authorized by an ordinance adopted by an extraordinary vote of the governing body or voter approval in a countywide referendum, and the proceeds are used to fund specified transportation expenditures. The second is a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold within a county²⁵. This tax may be authorized by an ordinance adopted by a majority vote of the governing body or voter approval in a countywide referendum, and the proceeds are used to fund specified transportation expenditures. The third tax is a 1 to 5 cents levy upon every net gallon of motor fuel sold within a county, and diesel fuel is not subject to this tax²⁶. This additional tax may be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body or voter approval in a countywide referendum, and the proceeds are used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan.

Discretionary Sales Surtaxes

By statute, counties and school districts have limited authority to levy certain discretionary sales surtaxes for specific purposes on transactions subject to state sales tax.²⁷ There are nine separate discretionary sales surtaxes. However, there are limitations regarding which counties may levy each surtax and which surtaxes may or may not be levied in combination.²⁸ Local discretionary sales surtaxes are generally approved by referendum.²⁹ The referendum must be approved by a majority of electors voting.³⁰ Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.³¹

Discretionary sales surtaxes requiring voter approval are the:

- Charter county and regional transportation system surtax;³²
- Local government infrastructure surtax;³³
- Small county surtax;³⁴
- Indigent care and trauma center surtax;³⁵

²² Section 125.0104(3)(c), F.S.

²³ Section 125.0104(3)(d), F.S.

²⁴ Section 336.021(1)(a), F.S.

²⁵ Section 336.025(1)(a), F.S.

²⁶ Section 336.025(1)(b), F.S.

²⁷ Section 212.054, F.S.; s. 212.055, F.S.

²⁸ Section 212.055, F.S.

²⁹ Section 212.055, F.S., *but see* s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission, as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4), F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

³⁰ Section 212.055, F.S.

³¹ *E.g.* s. 212.055(1)(c), F.S. (referendum for charter county and regional transportation system to be held at a time “set at the discretion of the governing body”); *but see* s. 212.055(8)(b), F.S. (referendum for emergency fire rescue services and facilities surtax must be placed on the ballot of a “regularly scheduled election”).

³² Section 212.055(1), F.S.

³³ Section 212.055(2), F.S.

³⁴ Section 212.055(3), F.S.

³⁵ Section 212.055(4)(b), F.S. Only the portion of the surtax for funding trauma services provided by a trauma center in counties with a population of less than 800,000 requires voter approval. Section 212.055(4)(a), F.S., also authorizes counties with a population of at

- School capital outlay surtax;³⁶
- Voter-approved indigent care surtax;³⁷
- Emergency fire rescue services and facilities surtax³⁸; and
- Pension liability surtax³⁹.

Note that the small county surtax may be levied by extraordinary vote of the county governing board if the proceeds are to be expended only for operating purposes.

Ad Valorem Taxes (Property Taxes)

Most property tax levies under current law do not require voter approval, with the following exceptions:

- Operating purposes for up to 2 years, not subject to 10 mill cap;
- School additional operating millage (not to exceed four years)⁴⁰;
- Debt service, not subject to 10 mill cap⁴¹;
- For special districts (except water management districts), a millage authorized by law and approved by the voters.⁴²

Referendum Process

The Florida Election Code sets forth the general requirements for a referendum.⁴³ The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.⁴⁴ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.⁴⁵ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.⁴⁶ For some discretionary sales surtaxes, the form of the ballot question is specified by statute.⁴⁷

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.⁴⁸ A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.⁴⁹

Proposed Change

The bill requires any local option or property tax levy, including property taxes levied by special districts, that will be approved by referendum be considered only at a general election. Further, the bill would increase to sixty percent the approval threshold for voter approval of any local option tax or property tax levy. The bill amends s. 125.901, F.S., to make clear that these requirements apply to Children’s Services Council independent special districts

least 800,000 to levy a surtax for providing medical care for indigent persons, but that can be approved by either a an extraordinary vote of the governing body *or* by referendum.

³⁶ Section 212.055(6), F.S.

³⁷ Section 212.055(7), F.S.

³⁸ Section 212.055(8), F.S.

³⁹ Section 212.055(9), F.S.

⁴⁰ Sections 1011.71(9) and 1011.73(2), F.S.

⁴¹ Art VII, sec (9)(b), Fla Const.

⁴² *Id.*

⁴³ Section 101.161, F.S.

⁴⁴ Section 101.161(1), F.S.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *See* s. 212.055(4)(b)1., F.S. (ballot question for discretionary sales surtax for trauma centers).

⁴⁸ Section 97.021(11), F.S.

⁴⁹ Art. VI, sec 5(a), Fla. Const. (also codified as s. 97.021(15), F.S.)

New Tax-Supported Debt Issuance: *Required Referenda*

Current Law

Local governments are authorized to issue debt supported by tax revenues. For example, s. 125.01(1)(r), F.S., provides:

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

(r) Levy and collect taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit, and special assessments; borrow and expend money; and issue bonds, revenue certificates, and other obligations of indebtedness, which power shall be exercised in such manner, and subject to such limitations, as may be provided by general law. There shall be no referendum required for the levy by a county of ad valorem taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit.

Section 166.111, F.S., provides:

The governing body of every municipality may borrow money, contract loans, and issue bonds as defined in s. 166.101 from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property, and taxing power of the municipality for the payment of such debts and bonds.

The Florida Constitution authorizes counties, municipalities, school districts, special districts, and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness, or any form of tax anticipation certificates, that pledge ad valorem tax revenues and mature more than 12 months after issuance to finance or refinance capital projects authorized by law when approved by vote of the electors⁵⁰.

However, not all forms of obligations for financing capital outlay entered into by local governments fall under this constitutional grant of authority. For example, school districts often use long-term lease finance arrangements generally referred to as “certificates of participation” as a financing mechanism for construction and improvements of school facilities. These arrangements have been found not to require voter approval,⁵¹ because they are created where there is no express pledge of ad valorem tax revenues to support the debt, even though they may use tax revenues, including property taxes, as a revenue source for repayment. Essentially, if a bondholder has no right to compel the levy of ad valorem taxes by judicial action to meet the bond obligations, such an arrangement does not require voter approval under the state constitution.

Further, there is no general requirement that new local government tax-supported debt that pledges revenues beyond five years be approved by the voters.

⁵⁰ Art VII, sec 12, Fla. Const.

⁵¹ *State v. School Board of Sarasota County*, 561 So.2d 529 (Fla. 1990)

Proposed Change

The bill requires voter approval for any new tax-supported debt that pledges revenues beyond five years. The voter approval would be subject to the same election restrictions described above for local option and property taxes (i.e., referenda must be held at a general election and receive at least 60 percent approval).

The bill defines “debt” to mean:

[B]onds, loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, whether or not a debt for legal purposes, for financing or refinancing the acquisition, construction, improvement, or purchase of capital outlay projects.

The bill defines “tax-supported debt” to mean:

[D]ebt secured in whole or in part by state or local tax levies, whether such security is direct or indirect, explicit or implicit, including but not limited to debt for which annual appropriations pledged for payment are from government fund types receiving tax revenues or shared revenues from state tax sources. The term does not include debt that is secured solely by the revenues generated by the project that is financed with the debt.

The bill provides an exception to the general election requirement in certain emergency situations. The governing board, by a 4/5 majority vote may authorize a vote at an election other than the general election, while still requiring 60 percent voter approval. The bill requires the resolution to declare that an emergency exists, that issuance of new tax-supported debt prior to the next general election is necessary as a direct result of the emergency, and to set forth a plan for use of the proceeds for purposes directly related to or as a consequence of the emergency. The bill uses the definition of “emergency” found in the Emergency Management chapter of Florida Statutes (ch. 252, F.S.).

The term “emergency” per ch. 252.34(4), F.S., means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Administrative and Conforming Change

The bill creates a new Part IX of Chapter 218, F.S., titled the “Local Government Fiscal Responsibility Act.” The bill creates s. 218.901, F.S., providing that the purpose of the Act is to:

Promote the fiscal responsibility of local governments in their use of public funds by providing additional conditions under which local governments may increase taxes, enact new taxes, extend expiring taxes, or issue new tax-supported debt.

Effective Date

The effective date of the bill is July 1, 2018.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.0104(6), F.S., to require a referendum that adopts or amends tourist development taxes to be held only at a general election and to require 60 percent voter approval.

- Section 2. Amends s. 125.0108(5), F.S., to require a referendum that adopts or amends tourist impact taxes to be held only at a general election and to require 60 percent voter approval.
- Section 3. Amends s. 125.901, F.S., to clarify that the requirements in the bill for property tax increases to be approved only at a general election and with 60 percent voter approval, apply to Children's Services Council independent special districts.
- Section 4. Amends s. 200.065(5), F.S., to create a new statutory maximum millage rate for all non-school local governments.
- Section 5. Amends s. 200.091, F.S., to require elections held by counties to approve a certain millage rate for no more than two years be held only at a general election and to require 60 percent voter approval.
- Section 6. Amends s. 200.101, F.S., to require elections held by municipalities to approve a certain millage rate for no more than two years be held only at a general election and to require 60 percent voter approval.
- Section 7. Creates s. 200.105, F.S., to require that referenda under ch. 200, F.S., pursuant to s. 9(b), Art. VII of the State Constitution or pursuant to s. 12, Art. VII of the State Constitution be held only at a general election and requiring 60 percent voter approval.
- Section 8. Amends s. 212.055, F.S., to require that referenda approving local discretionary sales surtaxes be held only at a general election and to require 60 percent voter approval.
- Section 9. Provides that the act creates Part IX of chapter 218, Florida Statutes consisting of ss. 218.90, 218.901, 218.905, 218.91, and 218.92, F.S.
- Section 10. Amends s. 336.021(4), F.S., to require that referenda to levy the ninth cent fuel tax be held only at a general election and requiring 60 percent voter approval.
- Section 11. Amends s. 336.025(1)(b) and (3)(b), F.S., to require that referenda to approve certain local option motor fuel taxes be held only at a general election and to require 60 percent voter approval.
- Section 12. Amends s. 1011.73, F.S., to require that certain discretionary millages authorized under s. 9, Art. VII of the State Constitution and under s. 1011.71(9), F.S., be held only at a general election and to require 60 percent voter approval.
- Section 13. Provides that the effective date of the bill is October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The changes in the bill could have a negative, but indeterminate, impact on local government revenues.

2. Expenditures:

Local government expenditures may be reduced by an unknown amount to the extent that the expenses of holding referenda at elections other than general elections are avoided. However, some flexibility in the timing of capital project spending may be lost due to the requirement that voters approve new debt issuance, resulting in higher costs of an unknown amount than otherwise would occur.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the provisions of the bill result in fewer new taxes being enacted, households and businesses will experience lower taxes than otherwise would occur.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The municipality/county mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill prohibits municipalities and counties from enacting, extending or increasing certain local option taxes if they have increased their ad valorem taxes in any of the past three years. The bill also requires that certain excess unencumbered fund balances be reduced before a municipality or county may increase ad valorem taxes. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES